

**INFORMATION SHEET**  
**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS**  
**RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK**  
**COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** St Paul District  
**FILE NUMBER:** 04-159618-DJP

**REGULATORY PROJECT MANAGER:** Dale J. Pfeiffle **Date:** , 2004

**PROJECT REVIEW/DETERMINATION COMPLETED:** In the office Y (Y/N) **Date:** , 2004  
 At the project site \_\_ (Y/N) **Date:**                     

**PROJECT LOCATION INFORMATION:**

**State:** Wisconsin  
**County:** Waukesha  
**Center coordinates of site by latitude & longitudinal coordinates:** 42.906889113N, 88.173033417W  
**Approximate size of site/property (including uplands & in acres):** 19 acres  
**Name of waterway or watershed:** Upper Fox, Illinois, Wisconsin

**SITE CONDITIONS:**

Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands					X				
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup> :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary \_\_ Or Approved X.

**ADDITIONAL INFORMATION SUPPORTING NJD (e.g., discussion may include information reviewed to assess potential navigation or interstate commerce connections - 1 to 3 paragraphs):** A wetland delineation completed by a private consultant was received for jurisdictional review and concurrence. The report indicated that the delineated wetlands may ultimately connect to a tile line located on the farmed property to the east and eventually connect to a tributary to Little Muskego Lake. A review of local topographic maps on the Waukesha County IMS indicate that the delineated wetland is part of a larger 20-acre wetland located within a depressional area. The entire depression is surrounded by a rise in elevation of approximately 10 to 20 feet. The contour lines indicate that surface drainage is all directed into, but not out of the wetland. A review of the Waukesha County soil survey indicates that subject wetland is underlain by a hydric soil that is surrounded by non-hydric mapping units. The drainage patterns shown in the soil survey indicate that all water drains into the wetland. A review of aerial photography from 1963 to 2000 fails to show the presence of any natural or man made surface water connection to a water of the US. No waters of the US are in close proximity. Although the consultant's report suggests a drain tile connection, there is no evidence of a viable connection or adjacency to a water of the US. Therefore, the subject wetland is isolated and not subject to Corps jurisdiction.